3 (S)

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR(C.G.)

M.A. No. 612 OF 2006 Division Bench

(APPEAL VALUED AT Rs2,80,000 /-)

APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLES ACT, 1988.

P.R. No. 1236/06 dated 29/12/06 Presented by Shri D.G. Upadhyay

APPELANT (NON- APPLICANT NO.4)	:	National Insurance Company Limited, Divisional-office, Bhootani Complex, G. E.Road Bhilai, Distt.-Durg, through:-Its Branch Manager, Taha Complex Vyapar vihar Raod Bilaspur (C.G.)
		VERSUS
RESPONDENTS (APPLICANT NO.1)	:1.	Mst. Kaushilya Bai W/O Late Rajaram Sahu , aged –39years .
(APPLICANT NO.2)	:2.	Tara Bai Sahu W/O- Late Derha Sahu, Aged-60years,
		Both are R/O- Hirri Mines, Indrapuri, P.S.- Hirri, Tah. & Distt. Bilaspur (C.G.)
(NON-APPLICANT No1)	:3.	Abbash Mohammad @ Sheikh Mohammad , S/O Majid Mohammad aged 24 years, R/O-Jarha Bhatha Mandir Chowk Bilaspur (C.G.), At Present- Dubey's House, Qr. No. 1 W.A. 8- B, Hirri Mines, P.S.- Hirri, Tah. & Distt. Bilaspur (C.G.).
(NON-APPLICANT No2)	:4.	Shantosh Kumar @ Saturam Kurmi S/O Arjun Singh Kurmi aged 39 years, R/O Bhaver Gara, P.S. Daukikohara Dostt. Biaspur, Permanent Address- Dalli Rajhara, Distt.Durg (C.G.) (Truck Driver)
(NON-APPLICANT No3)	:5.	Kamlesh Kumar Randive S/O Ganesh Rao Randive aged 22 years, R/O- Sasang Road Contractor Colony, Supela, Bhilai, Distt. Durg (C.G.) (Owner of the Truck)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.No. 812/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

15/1/2007 :

Shri Dashrath Gupta, counsel for the appellants.

Heard on admission. This order shall govern M.A. No. 808/2006.

Brief facts of the case are that on 24-04-2004 at about 1.00 a.m. the deceased Raja Ram Sahu and Sonu Sahu were travelling in the jeep bearing registration No. C.G.10/Z.D./2168. Near village Temari, a Truck No. C.G. 04-G/0490 loaded with iron rod extending 4-5 feet out side the body of the truck was standing on the road without any signal or side lights. The said jeep, on reaching near the above place intruded into the said truck. In this accident Raja Ram and Sonu Sahu died on the spot. The learned M.A.C.T. awarded compemsation of Rs. 2,80,000/- and 1,75,000/- in Claim Case Nos. 152/2005 and 153/2005 respectively.

Learned counsel for the appellants further submitted that the amount of compensation awarded in Claim Case Nos.152/2005 and 153/2005 has already been deposited by the appellant in the learned M.A.C.T.

The only point urged by the learned counsel for the appellants in both these appeals is that the liability to pay compensation as awarded by the learned Motor Accident Claims Tribunal ought to have been apportioned and the liability to pay compensation ought also to have been fastened on the driver of the illfated jeep. No other point was urged by the learned counsel for the appellants.

Upon a perusal of the record of Claim Case Nos. 152/2005 and 153/2005 arguments advanced by the learned counsel for the appellants cannot be countenanced. Admittedly the truck insured by the appellants was standing in the middle of the road at night with heavy load of iron rods which were protruding 4-5 feets at the back side

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक M.A.No.812/ **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	of the truck. No light, signal or indicators were put on the truck. Negligence of the driver of the truck is thus established. The question of contributory negligence on the part of the jeep driver does not arise. In this view of the matter, no ground is made out for admission of these appeals. In the result, both M.A. Nos. 812/2006 and 808/2006 are dismissed at the stage of admission. In view of the above, M.C.P. Nos. 1097/2006 and 1093/2006 also stand dismissed. No order as to costs. **Sd-/** **Dilip Raosaheb Deshmukh** **Judge**	

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P.T.O.